IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7299 OF 2007

Dilip Vasant Shinde .... Petitioner

versus

State of Maharashtra & ors..... Respondent.

Shri P.C.Kansara i/b. Kansara & Thanekar for the petitioner.
Shri S.K.Chinchalikar AGP for respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 01ST OCTOBER, 2007

P.C.;

1. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of parties.

2. On an application moved by the petitioner for renewal of licence, the respondent no.3 issued a show cause notice as to why the licence should not be suspended for 45 days. The petitioner replied the show cause notice and after considering the same the third respondent passed the impugned order on 28-08-2007 directing suspension of the police licence bearing No.27/96 for a period of 45 days. The impugned order further recites that if the petitioner is aggreived by the aforesaid order, he may appeal to the Government within 30 days from the receipt of the

order, and if the petitioner wishes to keep the establishment closed for a continuous period of 45 days, the petitioner is expected to intimate the local police station about his option one day in advance.

3. It is the case of the petitioner that the order dated 28-08-2007 was received by him on 31-08-2007 and he filed appeal before the State Government on 10-9-2007. The greivance of the petitioner is that no orders on the stay application are passed though a period of about 20 days have lapsed. The order of suspension would thus operate on 30-9-2007. The learned counsel for the petitioner submits that the right o f appeal would be rendered negatory if the impugned order is not stayed as the State Government has yet not heard the stay application. This petition has been filed being aggrieved by the in-action on the part of the State Government in deciding the stay application, when the suspension order would come into operation on 4-10-2007. The learned counsel has placed reliance on a judgment rendered by a Division Bench of this court in **W.P.No. 4393/03 so also in W.P.No.8502/03** with connected bunch of petitions, wherein pending decision of the stay application the impugned order has been stayed. As under the act the impugned order is made appealable and as period of 30 days is prescribed for filing of the appeal, it is but

natural that orders on the stay application are expected to be passed before the order operates. In the present case though the appeal and the stay application has been filed on 10-9-2007, the stay application has not yet been heard and hence no order is passed.

4. In this view of the matter leaving all questions open, I direct the State Government to decide the stay application filed by the petitioner within a period of four weeks from today and till then the impugned order passed by the respondent no.3 dated 28-08-2007 shall remain stayed. Rule made absolute in the above terms.

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